

EXHIBIT 5

MAO DECLARATION OPPOSITION TO GOOGLE'S MOTION TO EXCLUDE LASINSKI

DOCUMENT SOUGHT TO BE SEALED

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ANIBAL RODRIGUEZ, SAL CATALDO,)
JULIAN SANTIAGO, and SUSAN LYNN)
HARVEY, individually and on)
behalf of all others similarly)
situated,)

Plaintiffs,)

vs.)

) Case No.
) 3:20-cv-04688-RS

GOOGLE LLC,)

Defendant.)
_____)

VIDEO-RECORDED DEPOSITION OF
CHRISTOPHER R. KNITTEL, Ph.D.
Tuesday, July 11, 2023
Volume I

*** ATTORNEYS' EYES ONLY ***

Reported by:

CARLA SOARES

CSR No. 5908

Job No. 5996021

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VIDEO-RECORDED DEPOSITION OF CHRISTOPHER
R. KNITTEL, Ph.D., Volume I, taken on behalf of
Plaintiffs, beginning at 9:33 a.m., and ending at
7:22 p.m., on Tuesday, July 11, 2023, before CARLA
SOARES, Certified Shorthand Reporter No. 5908.

1 A Okay. 16:27:17

2 Q Here you describe how conversion
3 measurement using a third-party platform works,
4 correct?

5 A Yes. 16:27:31

6 Q The first step is that the third-party
7 platform's SDK sends conversion data to that third
8 party, right?

9 A Yes.

10 Q The second step is that the third-party 16:27:46
11 platform passes that conversion data to the ad
12 network, which in this case is Google, right?

13 A I say "Google and Facebook." But for this
14 case, yeah. The "case" being the legal case versus
15 the case that we're talking about. 16:28:06

16 Q So even if an app uses a third-party
17 platform for conversion tracking, Google still has
18 to collect and save app activity data for
19 attribution to work, correct?

20 A Not necessarily sWAA-off data. 16:28:27

21 Q How could Google or any third party track
22 sWAA-off conversions using a -- scratch that.

23 Going to the second step described in
24 paragraph 35, how could a third party track sWAA-off
25 conversions if Google does not collect and save app 16:28:52

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1 activity data? 16:28:54

2 A sWAA-off app activity data, correct?

3 Q Right.

4 A They could model it.

5 Q Okay. Let's set aside modeling and assume 16:29:03

6 it's deterministic tracking for the purposes of this

7 question.

8 Could a third party do conversion

9 tracking, deterministic conversion tracking, if

10 Google did not collect and save app activity data? 16:29:22

11 MR. SANTACANA: Calls for speculation,

12 incomplete hypothetical.

13 THE WITNESS: So you're asking me to set

14 aside modeling. I'm happy to do that. What I'm

15 less happy to do is speculate on how smart computer 16:29:39

16 scientists are.

17 So, sure, as an economist, sitting here

18 today, I probably couldn't write the code to do such

19 a thing, but I'm less sure that some smart Stanford

20 grad is completely -- or MIT grad -- is completely 16:30:02

21 unable to do so.

22 BY MR. SILA:

23 Q I definitely don't want you to speculate

24 about what engineers who are much brighter than I

25 can do. 16:30:12

1 My question is about the process of 16:30:16
2 conversion measurement using third-party platforms
3 as described in paragraph 35. This process would
4 not function if Google did not collect and save app
5 activity data, correct? 16:30:30

6 A The process --

7 MR. SANTACANA: Sorry. Same objections.

8 THE WITNESS: The process -- the
9 economist's view of the process that I laid out in
10 paragraph 35 wouldn't, but that's not to say that 16:30:42
11 the process -- to read the first sentence, "The
12 process of conversion measurement using third-party
13 platforms" itself could not exist. Those are two
14 very different things.

15 MR. SILA: Okay. I'm introducing a Google 16:31:13
16 Help page titled "About tracking app conversions
17 with an App Attribution Partner," which you cite in
18 paragraph 97 of your report, Footnote 213.

19 (Exhibit 13 was marked for identification
20 and is attached hereto.) 16:31:29

21 BY MR. SILA:

22 Q Let me know when you have it. It's
23 Exhibit 13.

24 A Okay.

25 Q As you understand it, can Google Analytics 16:31:59

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1 track and attribute conversion events on both the 16:32:02
2 web and apps?

3 MR. SANTACANA: Vague, compound.

4 THE WITNESS: Can Google track conversions
5 on the web and apps? Is that what you're asking? 16:32:19

6 BY MR. SILA:

7 Q Yes.

8 A I believe they can.

9 Q Okay. This document in Exhibit 13 lists
10 Google's third-party app attribution partners about 16:32:32
11 halfway down the page, right?

12 A On the first page?

13 Q Yep.

14 A Okay. Yes.

15 Q Do you know whether AppsFlyer can track 16:32:59
16 and attribute conversion events on the web?

17 A I do not.

18 Q Do you know whether Kochava can track and
19 attribute conversion events on the web?

20 A I do not. 16:33:13

21 Q Do you know whether any of these
22 third-party attribution partners can track and
23 attribute conversion events on the web?

24 A I do not.

25 Q Google Analytics can also track and 16:33:28

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1 say you can create a third party yourself, this is 16:41:15
2 probably what it would look like.

3 Q Is it your understanding that it would be
4 realistic that in response to a court order
5 requiring Google to stop collecting, saving, and 16:41:35
6 using sWAA-off data, Alphabet would actually just
7 incorporate its conversion-tracking operation under
8 a different name memorialized on a new piece of
9 paper, and keep going as is?

10 A That's not my understanding at all. 16:41:52
11 That -- to have that understanding requires a legal
12 opinion, and I'm not willing to offer a legal
13 opinion.

14 Q Okay. You're not offering any opinion
15 about how likely the but-for scenario described in 16:42:04
16 paragraph 84 would be to actually unfold, correct?

17 MR. SANTACANA: Misstates testimony.

18 THE WITNESS: Again, I would say that in
19 the event the Court says that they could do this,
20 then I would say it's probably likely. But it would 16:42:23
21 require the court to allow them to do so.

22 BY MR. SILA:

23 Q All right. Do you understand that
24 plaintiffs allege that if Google were to abide by
25 users' permission, Google would be unable to serve 16:42:44

1 ads to sWAA-off users in Scenario 2 of 16:42:49
2 Mr. Lasinski's model?

3 A I don't think the plaintiffs alleged
4 Scenario 2. I don't think what the plaintiffs
5 alleged led to Scenario 2. 16:43:06

6 Q That's a bad question. Correct. Let me
7 try it again.

8 Do you understand that in Mr. Lasinski's
9 Scenario 2, Google would be unable to serve and
10 monetize the ads it currently serves sWAA-off users? 16:43:20

11 A I understand that that is Mr. Lasinski's
12 assumption, yes.

13 Q And in that scenario, Google would not
14 have made the revenues attributable to ads served to
15 sWAA-off users, correct? 16:43:47

16 A So that's where I think Mr. Lasinski and I
17 disagree.

18 Q Is it your opinion that Google would have
19 made money from sWAA-off ads even though Google
20 couldn't have served and monetized ads served to 16:44:03
21 sWAA-off users?

22 A It's my opinion that I could imagine
23 Google thinking of a way to monetize them in some --
24 monetize that space in some way.

25 I, as an economist, haven't -- or could 16:44:26

1 not think of that way, but Google is full of very 16:44:31
2 smart people, and I would imagine they would think,
3 or could potentially think of a way to monetize that
4 space in some way.

5 MR. SILA: Let's go off the record. 16:44:45

6 THE VIDEO OPERATOR: This marks the end of
7 Media No. 5. Off the record. The time is 4:44.

8 (Recess, 4:44 p.m. - 5:05 p.m.)

9 THE VIDEO OPERATOR: This marks the
10 beginning of Media No. 6 in the deposition of 17:05:33
11 Dr. Christopher Knittel. We're back on the record.
12 The time is 5:05.

13 BY MR. SILA:

14 Q Dr. Knittel, are you aware that Google has
15 represented in this litigation that Google does not 17:05:48
16 personalize ads using sWAA-off data collected by
17 Google Analytics for Firebase?

18 A I believe that's -- that's what they've
19 represented, yes.

20 Q Would you agree with me that all else 17:06:05
21 equal, the more personalized an ad is, the more
22 valuable the ad is?

23 A If you're doing it right, I would agree
24 with that.

25 Q So in determining the revenue that Google 17:06:21

1 derives from serving ads to sWAA-off users, isn't it 17:06:24
2 appropriate to consider the fact that sWAA-off ads
3 are less personalized than sWAA-on ads?

4 A I believe you're asking, if one was tasked
5 with coming up with the value of sending ads to 17:06:52
6 sWAA-off customers, that at least on average they
7 would be less valuable because they're less
8 personalized?

9 Q That's correct.

10 A That would be my hunch. I haven't given 17:07:07
11 much thought on that question, but if you ask me for
12 an answer right now, that seems like a reasonable
13 one.

14 Q Are you familiar with a setting called
15 "GAIA Ads Personalization," which is abbreviated 17:07:21
16 GAP?

17 A I am.

18 Q Whereas the sWAA setting reduces that
19 personalization, the GAP setting turns off ad
20 personalization entirely, correct? 17:07:38

21 A That's my understanding, but I haven't
22 reviewed what it does in a while.

■

■

■

25 A Yes. 17:07:54

1 That understanding is based on counsel's 18:06:14
2 representations?

3 A Certainly at least in part, yeah. I might
4 have read that elsewhere, but that's part of the
5 conversations we've had. 18:06:29

6 Q In paragraph 144 of your report, you
7 write, quote, "Lastly, as I discuss above, users
8 receive benefits or utility from a better
9 ad-supported app experience as a result of Google's
10 activity." 18:06:53

11 Do you see that?

12 A Yes.

13 Q This might just be my problem. Do you
14 know where in your report user benefits are
15 "discussed above"? 18:07:04

16 A Oh, I'd have to go through -- I'd have to
17 go through the report again.

18 Q Okay. It may be not worth the time, but
19 if you can find it.

20 Do you mean that they -- in paragraph 144 18:07:26
21 or in your report generally, that users receive
22 utility from Google's general practice of collecting
23 app activity data?

24 A So what I'm saying there is that they
25 certainly -- if you read the next sentence, it says, 18:07:50

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1 "These benefits are likely to vary across 18:07:53
2 individuals," so they certainly can.

3 Q What utility do users receive?

4 A From advertising or from the apps that
5 they're downloading. 18:08:11

6 Q Is it your understanding that advertising
7 is not possible if Google does not collect app
8 activity data?

9 A I think we had this conversation before
10 about how smart Google engineers are. I would 18:08:33
11 hesitate to say that it's not possible.

12 Q Okay. So are you not sure whether users
13 receive advertising-related utility from Google's
14 collection of app activity data?

15 MR. SANTACANA: Vague. 18:08:53

16 THE WITNESS: No, I'm sure that -- so the
17 use of web activity data -- and I guess we're now
18 talking about SWAA on, SWAA off, just in general.

19 That activity data, as one example, allows
20 Google to, potentially at least, design better or -- 18:09:21
21 better ad placement, do better things, in the ad
22 space. And consumers certainly, on average, benefit
23 from that. I would say that the benefits vary
24 considerably across users. But on average,
25 consumers benefit from this web activity, or this 18:09:50

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1 advertisement activity. 18:09:54

2 BY MR. SILA:

3 Q You mentioned also that users receive
4 utility from the apps that they download.

5 Is it your opinion that if Google did not 18:10:06
6 collect app activity data, users would not receive
7 utility from apps they download?

8 A I guess I would be inclined to believe
9 that they may end up downloading fewer apps. So
10 again, less utility because they're interacting with 18:10:29
11 fewer apps.

12 Q What's the basis of your opinion that if
13 Google did not collect sWAA-off -- scratch that.

14 What's the basis of your opinion that if
15 Google did not collect app activity data, users 18:10:43
16 would download fewer apps?

17 A So I could imagine that the web activity
18 data creates a virtual cycle, so to speak, where
19 that allows Google to better display ads, better
20 generate ads, and so on, that then, the fact that 18:11:11
21 Google can do that, a potential app developer then
22 knows that Google can do that.

23 So there's some apps that get developed
24 that would not have gotten developed in this but-for
25 world where web activity data aren't collected, let 18:11:28

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